IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5480 OF 2004

Shri Dinkar S. Patil ... Petitioner

v/s

Sou. Kusum R. Joshi ... Respondent

Mr A.B. Borkar for Petitioner.

None for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 29TH JUNE 2005.

P.C. :-

1. Admittedly, the petitioner did not file written statement within 90 days after service of the suit summons. The reason given by him for not filing written statement within time was the alleged illness of the mother. No document in support of the fact that his mother was ill is admittedly produced. In view of the amendment in the C.P.C., a written statement can be filed after expiry of period of 90 days if the defendant concerned makes out exceptional circumstance. Therefore, the burden was entirely on the petitioner to show what was the nature of ailment of his mother and that the nature of illness was such that he was unable to file written statement within 90 days of service of the suit summons. Admittedly, even attempt to discharge this burden has not been made. I find no substance in the petition. Petition is rejected.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.